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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,522	03/16/2007	Hugo De Ruiter	EB-26017	1433
2387	7590	12/08/2009		
Olson & Cepuritis, LTD. 20 NORTH WACKER DRIVE 36TH FLOOR CHICAGO, IL 60606			EXAMINER NELSON JR, MILTON	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 12/08/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,522	Applicant(s) DE RUITER, HUGO	
	Examiner Milton Nelson, Jr.	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/14/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/16/06 & 9/14/09 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The replacement drawing sheet filed September 14, 2009 has been entered.

The objection to the drawings as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description has been overcome in view of Applicant's amendment/remarks.

The objection to the drawings as failing to comply with 37 CFR 1.84(p)(4) because reference character "3" has been used to designate both the backrest and an apparent seam on the seat portion has been overcome by Applicant's amendment.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device to support a reclining function of the "reclining surface" (claim 12), and a back rest capable of being positioned along the entire circumference of the seating surface (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the "reclining surface (2)", and a back rest or arm capable of being positioned along the entire circumference of the seating and/or reclining surface as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and

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where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

Claim 20 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 8. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3 and 12-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

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was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In line 2 of claim 12, the invention is defined as having a "reclining surface". It cannot be ascertained how the apparent any surface of the instant invention is capable of reclining as no reclining mechanism has been disclosed. Claims 13 and 14 are rejected since each depends from claim 12, directly or indirectly.

In claim 3, the back rest is set forth as "can be positioned along the entire circumference of the seating surface". It cannot be ascertained how the back rest is capable of achieving this configuration as it is shown in each of the drawings that the back rest is positioned only along a portion of the circumference of the seating surface at any time.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with indefinite language. Such has hindered an understanding of that which Applicant intends to define as the claimed invention. Examples are as follows: In lines 3 to 4 of claim 21, it is unclear if "at least one support rest (3, 4) is intended to be the same structure as the previously set forth "at least one

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support rest (3, 4). In line 5 of claim 21, "the direction of adjustment" lacks proper antecedent basis. In line 7 of claim 21, it is unclear if "the support rest" is intended to be the same structure as the previously set forth "at least one support rest (3, 4)". In line 7 of claim 21, the phrase "essentially" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. In lines 1 to 2 of claim 3, it is unclear if "the support rest" is intended to be the same feature as the previously set forth "at least one support rest (3, 4)". In claim 3, the recitation "can be positioned along the entire circumference of the seating surface" is vague as it does not appear that the invention is capable of meeting this limitation. In claim 4, the recitation "there are two support rests" is vague because it is unclear if "the at least one support rest (3, 4)" is included in the "two support rests". In claim 5, it is unclear if "the support rest" is intended to be the same feature as the previously set forth "at least one support rest (3, 4)". Line 4 of claim 5 is grammatically incorrect. Note the recitation "they each form an element". In line 5 of claim 5, it is unclear if "five or seven elements (10)" are intended to include "a plurality of elements (10)". In claim 6, it is unclear if "the support rest" is intended to be the same feature as the previously set forth "at least one support rest (3, 4)". In claim 7, it is unclear if "the support rest" is intended to be the same feature as the previously set forth "at least one support rest (3, 4)". In claim 7, "the circumferential surface (5)" lacks proper antecedent basis. In line 2 of claim 8, the phrase "essentially" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. In line 2 of claim 9, "the back rest (3, 4)" lacks proper antecedent basis. In line 2 of claim 9, "the forces"

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lack proper antecedent basis. In line 3 of claim 9, "the user" lacks proper antecedent basis. In claim 9, the structure represented by "it" cannot be ascertained. In claim 10, "the desired shape of bending" lacks proper antecedent basis. In claim 10, "the back rest (3, 4)" lacks proper antecedent basis. In line 2 of claim 11, the phrase "essentially" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. In claim 11, "the circumferential contour of the side face" lacks proper antecedent basis. In claim 11, "the side face" lacks proper antecedent basis. In line 2 of claim 12, "the understructure" lacks proper antecedent basis. In claim 12, reference is made to a seating "and/or" reclining surface. It cannot be ascertained whether the intent is to positively claim a seating surface, a reclining surface, or both. In claim 12, the "reclining surface" lacks proper antecedent basis. In claim 12, "the base" lacks proper antecedent basis. In claim 13, it is unclear if "a rail (12)" is intended to be the same as the previously set forth rail. In claim 13, it is unclear if "each support rest" represents the previously set forth "at least one support rest (3, 4)". In lines 3 to 4 of claim 13, it is unclear if "different elements (10)" are intended to include the previously set forth "a plurality of elements (10)". In claim 15, it is unclear if "the support rest" represents the previously set forth "at least one support rest (3, 4)". In claim 16, it is unclear if the recitation "there are two support rests" represents the previously set forth "at least one support rest (3, 4)". In claim 17, it is unclear if "the support rest" represents the previously set forth "at least one support rest (3, 4)". Line 2 of claim 17 is grammatically vague. Note the recitation "comprises at least one back rest (3, 4) is formed from separate rigid parts". Line 4 of claim 17 is grammatically

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vague. Note the recitation "and they each form an element (10)". In line 5 of claim 17, it is unclear if "at least five elements (10)" are intended to encompass the previously set forth "a plurality of elements (10)". In claim 18, the recitation "includes at least one back rest (3, 4) partially covers the seating surface (2)". In claim 18, it is unclear if "the support rest" represents the previously set forth "at least one support rest (3, 4)". Claim 19 recites the limitation "the circumferential surface (5)" in lines 2 to 3. There is insufficient antecedent basis for this limitation in the claim. In line 2 of claim 20, the phrase "essentially" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim Rejections - 35 USC § 102

The rejection of claims 1-20 under 35 U.S.C. 102(b) as being anticipated by Daswick et al (4195882) has been overcome by Applicant's amendment.

Allowable Subject Matter

The claims appear to include allowable subject matter, however indefiniteness must be rectified before the claims can be allowed.

Response to Amendment/Arguments

Applicant's response filed September 14, 2009 has been fully considered. Remaining issues are described in the above sections.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simjian (3905642) shows a back element that moves circumferentially about a seating surface. Lipparini et al (4865387) shows a backrest constructed of articulated members. Raeuber (2145201) shows a plural backrest members which are adjustable about a seating surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Milton Nelson, Jr./
Primary Examiner, Art Unit 3636

mn
December 6, 2009